

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

DR. FELIX GUZMAN RIVADENEIRA,

Plaintiff,

v.

CIVIL ACTION NO. 2:15-cv-07656

DEPARTMENT OF HOMELAND SECURITY, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On June 12, 2015, the Plaintiff, proceeding *pro se*, filed his Complaint (Document 1) in this matter. By *Standing Order* (Document 2) entered on that date, the matter was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On April 3, 2018, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 5) wherein it is recommended that this Court dismiss the Plaintiff's Complaint and this civil action pursuant to the provisions of 28 U.S.C. § 1915A and the dictates of *Twombly* and *Iqbal*, as well as pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by April 20, 2018, and none were filed by either party.¹

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Petitioner was returned as undeliverable on April 12, 2018.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's Complaint and this civil action be **DISMISSED** pursuant to the provisions of 28 U.S.C. § 1915A and the dictates of *Twombly* and *Iqbal*, as well as pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Tinsley, counsel of record, and any unrepresented party.

ENTER: April 30, 2018


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA